

Salgaonkar

MANDIRA MILIND
SALGAONKAR

Digitally signed by MANDIRA
SALGAONKAR
Date: 2025.12.11 17:54:48 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5942 OF 2025
WITH
INTERIM APPLICATION NO.4521 OF 2025
(NOT ON BOARD. TAKEN ON BOARD)

Raj Bhonuprasad Jaiswar .. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

...

Mr.Siddharth Singh i/b Mr.Rajesh Tiwari for the Petitioner.

Ms.Supriya Kak, Additional Public Prosecutor for the
State/Respondent.

**CORAM: BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATE : 04th DECEMBER, 2025

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P.C:-

1. Yesterday i.e. on 03/12/2025, from 5.30 p.m. to 7.00 p.m., we had interacted with the Petitioner and Ms.X, whom he referred to as his wife, in presence of their respective parents.

Since, Ms.X made it clear before us that she do not consider the marriage to be solemnized, which bind her, it was agreed before us that the two will part their ways, but subject to an undertaking being filed by the Petitioner, that in no way, he shall harass her and shall file an undertaking that in future, they will not cross paths with each other and she should be free from any obligations towards him. It was also agreed that

the Petitioner shall give an undertaking that he shall destroy all photographs, messages, videos, chats exchanged between them in the past and shall not put it to use on any social media platform or there shall not be any disclosure by him of this material in future.

By consensus, it was agreed that the proceedings filed by the Petitioner for restitution of conjugal rights and the proceedings filed by Ms.X for declaring the marriage as nullity in form of Petition No.160 of 2024, pending before the Civil Judge Senior Division, Bhiwandi shall be withdrawn by the respective parties. A consensus was also expressed that the subject F.I.R., which has now culminated into Special Case No.130 OF 2023 shall be quashed with consent of Ms.X.

2. We must note that during yesterday's hearing in the chamber, Advocate R.R.Tripathi represented Respondent Nos.3 and 4 as well as Ms.X. Whereas learned counsel Mr.Siddharth Singh represented the Petitioner. It was agreed that a special sitting shall be held on 04/12/2025 at 3.00 p.m. for filing the respective affidavits, so that the Petition can be disposed of.

3. Today, since we had another matter in chamber scheduled at 2.45 p.m., which was also pertaining to writ of Habeas Corpus and, therefore, we could take the Dias only at 3.40 p.m., we are informed that Advocate Tripathi appearing for the private Respondents has already left the Court and has handed over the undertaking-cum-affidavit of the proposed Respondent/victim Ms.X to the learned Additional Public Prosecutor.

The Petitioner has also affirmed an affidavit and it is placed before us.

4. In absence of Mr.Tripathi, the father and the uncle of Ms.X, are present before us alongwith her mother.

Ms.X, who is present in the Court, confirm before us that she has affirmed the affidavit tendered on her behalf by the learned Additional Public Prosecutor on 04/12/2025 and though the affidavit is not very happily worded by her lawyer, she unequivocally expressed to us that she want to end the relationship with the Petitioner and seek a declaration that the alleged ceremony of marriage that is performed between them shall not bind them.

She also expressed her no-objection in quashing the subject F.I.R. which was registered against the Petitioner by invoking Sections 363, 365, 376, 376(2)(n), 506 of the IPC and under Sections 4, 8 and 12 of the POCSO Act, 2012. According to her, at the relevant time, she was minor and, therefore, the provisions of the POCSO Act were invoked. But, since the alleged marriage ceremony was performed between them, when she attained majority, she is voluntarily making a statement that she is not desirous of prosecuting the Petitioner, as in her 164 statement, she had categorically stated that she had voluntarily married the Petitioner and she was never kidnapped or coerced into the relationship.

5. In any case, as on date, Ms.X has decided to continue to prosecute her education and without disclosing her whereabouts, she want to lead her future life and focus on education and do not want to be entangled in any litigation.

The affidavit contain a specific undertaking that the Marriage Petition No.160 of 2024 filed by her seeking a decree of nullity shall not be pressed by her and she will withdraw the said proceedings, as the Petitioner as well as Ms.X have agreed that there was no marriage lawfully solemnized between them. This is, however, subject to the Petitioner abiding by the undertaking given by him in his affidavit dated 04/12/2025.

6. The affidavit filed by the Petitioner also categorically state that he shall withdraw the Petition filed under Section 9 for restitution of conjugal rights before the Family Court at Bandra in form of Petition No.A/3171/2024 unconditionally. His affidavit also contain following undertaking, which we deem necessary to record.

“(iv) I further state that I shall permanently delete and destroy all photographs, messages, videos, chats, audio recordings or any other material or data pertaining to Ms.Shreya Shailesh Pandey from all my devices, accounts and storage, and I undertake that I shall never use, circulate, disclose, publish, forward, exhibit, store, upload, post or rely upon any such photographs, messages or digital content of Ms.Shreya Shailesh Pandey at any time in future, either directly or indirectly, including on any social media, digital platform or through any third person.

(v) I further undertake that I shall not retain any copy or backup of such data in any manner whatsoever, and that I shall not use the same in any future proceeding, complaint or interaction under any circumstances.

(vi) That I shall not send any message, whether verbal, written, electronic, digital, or through any third person, nor shall I attempt to establish any form of communication or proximity with her family and her future inlaws at any point of time.

(viii) That I hereby give my unconditional undertaking that she shall be free to lead her independent life, and I shall not, under any circumstances, be the cause of any interference, disturbance, harassment or inconvenience to her, to her present or future family members, relatives, husband or in-laws.”

7. The affidavits filed by both the parties are taken on record and the statements made therein are accepted as undertakings given to the Court.

8. In light of the counter affidavits filed by the Petitioner as well as Ms.X, since they do not intent to continue any relationship with one another and have decided to walk their own paths in life ahead, we accept the undertakings given in the affidavits filed by both parties. Further we are of the view that, as indicated by Ms.X in her affidavit, shared some close proximity and though they have agreed that some ceremony was performed between them in form of marriage, but now they have declared that the same will not bind them. In the wake of the no-objection accorded by Ms.X, who is now adult, to quash the subject F.I.R., despite containing accusation under the POCSO Act, 2012, in the given circumstances, we find the present case to be a fit case to exercise our inherent jurisdiction to quash the criminal proceedings, as we find that the victim at whose instance the subject F.I.R. was registered, has also decided to move ahead in the life, upon the undertakings given by the Petitioner that she shall be permitted to lead her life independently, without his involvement or interference.

9. In ***K. Kirubakaran Vs. State of Tamil Nadu***¹, while dealing with a case, where the appellant was convicted under Section 366 of IPC and Section 6 of the POCSO Act and he preferred an appeal before the High Court, which was dismissed and the marriage was performed between the victim and the appellant,

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the Court adopted a balanced approach and noted that the crime was not the result of lust, but love and the victim of the crime has expressed her desire to live a peaceful and stable family life with the appellant and continuation of the criminal proceedings would disrupt the familial unit and cause irreparable harm to the victim and the infant child. Recording that it was a case where the law must yield to the cause of justice, the proceedings were quashed against the appellant, including conviction of sentence.

10. In the present case, we find that the relationship shared between the two was a mutual relationship of love and on attaining majority, Ms.X also entered into some ceremony, in the nature of marriage, though it is now doubted, whether it was a marriage ceremony which would bring the couple as husband and wife, but on attaining majority, she has realized that she do not intent to continue the relationship with the Petitioner and want to continue with her education and lead her life independent of the Petitioner, though the Petitioner clearly expressed to us that he was ready and willing to accept the relationship and settle in life with her. However, if now at the end of Ms.X, there remain nothing in the relationship, so much so that she denied that the ceremony resulted into binding relationship between the two and she want to be set at liberty from the same, we are of the view that the Petitioner shall not be made to take the consequences of a consensual relationship shared and as quoted by Their Lordships of the Apex Court in ***K.Kirubakaran*** (supra), “*law aims to ensure not just punishment of the guilty, but also harmony and*

restoration of the social order”. Since we find that Ms.X does not maintain any grudge against the Petitioner nor does she want to press the accusations and she admit that the relationship was consensual, but she want to walk out of the relationship, according to us, it is a fit case where we should exercise our inherent power under the Code of Criminal Procedure for quashing of the proceedings, as now the Petitioner has also conceded to the fact that they must part their ways and should not create any obstacle in each others life and on the other hand, permit the other, to lead a happy and peaceful life. We, therefore, feel it appropriate to pass the following order.

: ORDER :

(i) F.I.R.No.206 of 2023 registered by Narpoli Police Station and all the proceedings flowing therefrom are quashed and set aside.

(ii) The aforesaid is subject to the Petitioner and Ms.X seeking withdrawal of Petition No.A/3171/2024, pending on the file of the Family Court at Bandra as well as Petition No.160 of 2024, pending before the Civil Judge Senior Division, Bhiwandi.

11. Needless to state that the parties shall be bound by the undertakings and withdraw all the proceedings within four weeks from today.

12. During the course of hearing, the documents which are annexed to the Petition by the Petitioner, including the copy of the alleged marriage certificate is handed over to Ms.X, which she has accepted and acknowledged.

13. The Petition and the Interim Application stand disposed of.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)